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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Christoph E. Scheurich, et al. § Group Art Unit: 2613  
§  
Serial No.: 09/083,601 §  
§  
Filed: May 22, 1998 §  
§  
For: Maintaining a Frame Rate in a § Atty. Dkt. No.: ITL.0045US  
Digital Imaging System § (P5755)

Board of Patent Appeals & Interferences  
Commissioner for Patents  
Washington, D.C. 20231

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REPLY BRIEF

Dear Sir:

Applicant submits the following Reply to the Examiner's Answer dated March 19, 2003.

In the Examiner's Answer, the Examiner contends that, "it now appeared that Thro et al. indeed discloses all of the cited limitations as discussed above." Examiner's Answer, 5. Thus, it appears the Examiner is now contending that Thro teaches all of the limitations, or anticipates, claims 19-38. However, regardless of whether the Examiner's rejections are based on § 103 or § 102, Thro fails to teach or suggest all of the limitations of claims 19-38.

In this manner, with the knowledge of the claimed invention, the Examiner is selectively reading portions from Thro out of context to allegedly show all of the limitations of the appealed claims. However, when Thro is read in its entirety and the passages of Thro are placed in their proper context, it is clear that Thro neither teaches nor suggests the limitations of claims 19-38.

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I hereby certify under 37 CFR 1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated above and is addressed to the Board of Patent Appeals & Interferences, Commissioner for Patents, Washington, DC 20231.  
Janice Menozzi

For example, regarding independent claim 19, claim 19 recites determining whether it is possible to transmit data that is associated with a requested image parameter at a requested frame rate and if not, adjusting the image parameter and transmitting the data. However, the Examiner fails to specifically show where Thro allegedly teaches or suggests adjusting an image parameter if it is not possible to transmit data that is associated with the original image parameter at a requested frame rate. The Examiner refers to lines 34-50 of column 6 of Thro to support the Examiner's contentions that Thro teaches these claim limitations.

In this cited passage, Thro discloses truncating or otherwise adjusting a received video signal in order to facilitate transmission of the composite video signal at a transmission rate that is compatible with the system communication resources. Thro, 6:40-44. However, this passage neither teaches nor suggests adjusting an image parameter if it is not possible to transmit data at a requested frame rate. As the Examiner can point to no language of Thro that teaches or suggests the missing claim limitations, it is submitted that the rejection of independent claim 19 is improper, and thus, the § 103 rejections of claims 19-24 should be reversed.

The method of claim 25 recites determining whether it is possible to communication first data that is indicative of an image having a first pixel resolution at a requested frame rate over a communication link. Claim 25 recites that if it is not possible, the first pixel resolution is decreased to a lower second pixel resolution and second data that is indicative of the image having a second pixel resolution is communicated over the communication link at the requested frame rate. Once again, the Examiner selectively reads portions of Thro to allegedly teach these claim limitations. However, truncating a video signal or otherwise adjusting a video signal does not teach or suggest the above-recited limitations of independent claim 25. The Examiner also cites language from Thro stating, "each transmission frame rate corresponds to a respective

resolution per frame." Thro, 6:31-32. Reading Thro in its entirety, this passage merely refers to the two different modes that may be used to communicate data, i.e., a first mode in which frame rate has a higher priority and a second mode in which the resolution has a higher priority. However, Thro neither teaches nor suggests determining whether it is possible to communicate first data indicative of an image having a first pixel resolution at a requested frame rate over a communication link. Rather, the only determination, or test, that occurs in Thro results in the truncation or otherwise adjustment of the video signal, as recited in lines 39-44 of column 6 of Thro.

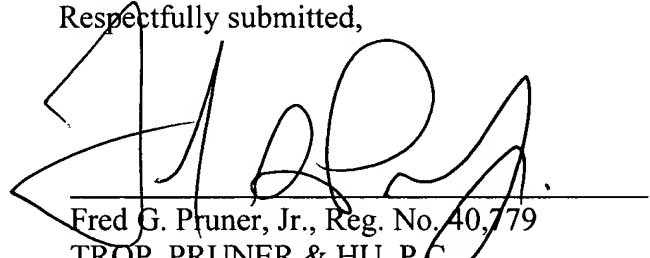
Thus, for at least the reasons stated above, the rejections of claims 25-29 are improper and should be reversed.

Likewise, for the reasons set forth in the Appeal Brief, Thro fails to teach or suggest the limitations of claims 30-38.

It is noted that obviousness is not to be predicated on what is unknown. *In re Spormann*, 363 F.2d 444, 448, 150 USPQ 449, 452 (CCPA 1966). As Thro fails to teach claim limitations from each of the independent claims, the Examiner must show specific support for the alleged suggestion or motivation to modify a reference to derive the missing claim limitations. *Ex parte Gambogi*, 62 USPQ2d 1209, 1212 (Bd. Pat. App. & Int. 2001); *In re Rijckaert*, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993); M.P.E.P. § 2143. However, the Examiner fails to show such support and therefore fails to establish a *prima facie* case of obviousness for claims 19-38.

The Applicant requests that each of the final rejections be reversed and that the claims subject to this appeal be allowed to issue. The Commissioner is authorized to pay any additional fees or credit any overpayment to Deposit Account No. 20-1504 (INTL-0045-US).

Respectfully submitted,



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Date: May 15, 2003

## APPENDIX OF CLAIMS

The claims on appeal are:

19. A method for communicating between a camera and a computer, comprising:  
determining whether it is possible to transmit data that is associated with a requested image parameter at a requested frame rate; and  
if not, adjusting the image parameter and transmitting the data.
20. The method of claim 19, wherein the adjusted image parameter comprises a decreased resolution.
21. The method of claim 19, further comprising transmitting data at the requested frame rate.
22. The method of claim 19, wherein the act of determining comprises determining an available bandwidth for communications between the camera and the computer.
23. The method of claim 22, wherein the act of determining comprises periodically evaluating the available bandwidth.
24. The method of claim 19, wherein the act of determining comprises testing for available packet sizes for transmitting the data.

25. A method comprising:  
receiving a request for a first pixel resolution;  
determining whether it is possible to communicate first data indicative of an image  
having the first pixel resolution at a requested frame rate over a communication link;  
if not possible, decreasing the first pixel resolution to a lower second pixel resolution and  
communicating second data indicative of the image having the second pixel resolution over the  
communication link at the requested frame rate.

26. The method of claim 25, further comprising:  
in response to determining that it is possible to communicate the first data at the  
requested frame rate, communicating the first data over the communication link at the requested  
frame rate.

27. The method of claim 25, wherein the act of determining comprises:  
determining an available bandwidth for communications between the camera and the  
computer.

28. The method of claim 27, wherein the act of determining comprises:  
periodically evaluating the available bandwidth.

29. The method of claim 25, wherein the act of determining comprises:  
testing for available packet sizes for communicating the data.

30. An article comprising a computer readable storage medium comprising instructions to cause a processor to:

- receive a request for a first pixel resolution,
- determine whether it is possible to communicate first data indicative of an image having the first pixel resolution at a requested frame rate over a communication link, and
- if not possible, decrease the first pixel resolution to a lower second pixel resolution and communicate second data indicative of the image having the second pixel resolution over the communication link at the requested frame rate.

31. The article of claim 30, wherein the instructions comprise:

- instructions to cause the processor to transmit the first data over the communication link at the requested frame rate.

32. The article of claim 30, further comprising:

- instructions to cause the processor to determine a usable bandwidth for communications between the computer and the camera.

33. The article of claim 32, wherein the instructions comprise:

- instructions to cause the processor to periodically evaluate the available bandwidth.

34. The article of claim 30, wherein the instructions comprise:

- instructions to cause the processor to test for available packet sizes to transmit the data.

35. A computer system comprising:  
a communication link;  
a camera coupled to the communication link; and  
a computer coupled to the communication link to:  
receive a request for a first pixel resolution,  
determine whether it is possible to communicate first data indicative of an image  
having the first pixel resolution at a requested frame rate over the communication link; and  
if not possible, decrease the first pixel resolution to a lower second pixel  
resolution and communicate second data indicative of the image having the second pixel  
resolution over the communication link at the requested frame rate.

36. The computer system of claim 35, wherein the computer determines whether it is  
possible to transmit the first data in response to determining a usable bandwidth for  
transmissions between the camera and the computer.

37. The computer system of claim 35, wherein the computer determines the usable  
bandwidth in response to testing for available packet sizes for transmitting the data.

38. The computer system of claim 35, wherein the computer further interacts with the  
camera to transmit the first data at the requested frame rate in response to the determination.